

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Douglas Green,)	C/A No.: 1:14-2225-MGL-SVH
)	
Plaintiff,)	
)	
vs.)	ORDER
)	
Lieutenant Sandra Kirkland; Officer)	
James McElroy; and Warden McCall,)	
)	
Defendant.)	
)	

Plaintiff Douglas Green, proceeding pro se and in forma pauperis, filed this action pursuant to 42 U.S.C. § 1983. Plaintiff alleges a violation of his constitutional rights while incarcerated at Lee Correctional Institution (“LCI”) in the custody of the South Carolina Department of Corrections (“SCDC”). This matter comes before the court on (1) the court’s initial review of Plaintiff’s amended complaint [Entry #27]; (2) Plaintiff’s motion to file a second amended complaint [Entry #44]; and (3) Plaintiff’s motion for copies [Entry #30]. Pursuant to the provisions of 28 U.S.C. § 636(b) and Local Civ. Rule 73.02(B)(2)(d) (D.S.C.), this matter has been referred to the undersigned for all pretrial proceedings.

I. Plaintiff’s Amended Complaint

Plaintiff filed his original complaint pursuant to 28 U.S.C. § 1915, which permits an indigent litigant to commence an action in federal court without prepaying the administrative costs of proceeding with the lawsuit. To protect against possible abuses of this privilege, the statute allows a district court to conduct an initial review to determine

whether the action fails to state a claim on which relief may be granted or is frivolous or malicious. 28 U.S.C. § 1915(e)(2)(B)(i), (ii). If the court finds that the complaint states a potentially viable claim and is in proper form for service of process, the court then authorizes service of process by the U.S. Marshal Service. Because Plaintiff's amended complaint [Entry #27] added Warden McCall as a new party, the amended complaint is subject to the court's initial review.

The court finds that the amended complaint states a claim that could withstand a motion to dismiss pursuant to Fed. R. Civ. P. 12(b)(6). However, Plaintiff has not yet submitted a completed USM-285 for McCall and the court has therefore not yet authorized service. The Clerk of Court is directed to mail a blank summons and Form USM-285 for Plaintiff to complete as to McCall. Plaintiff must provide, and is responsible for, information sufficient to identify McCall on the Form USM-285 and the summons. The United States Marshal cannot serve an inadequately identified defendant, and unserved defendants may be dismissed as parties to this case.

Alternatively, and given that counsel for defendants has already filed an answer to the amended complaint on McCall's behalf [Entry #37], counsel may agree to accept service on behalf of McCall. To the extent that counsel for defendants is willing to accept service of the summons and complaint on behalf of McCall, counsel is directed to so advise by filing a notice on the docket by September 5, 2014.

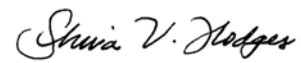
II. Motion to File Second Amended Complaint

On August 28, 2014, Plaintiff filed a motion to file a second amended complaint. Rather than adding new parties or claims, Plaintiff's proposed second amended complaint [Entry #44] clarifies Plaintiff's amended complaint. Plaintiff's motion to amend is denied to the extent it seeks to create a second amended complaint, but is granted to the extent it seeks to clarify and supplement the amended complaint. The Clerk's office is directed to docket Plaintiff's proposed amendments [Entry #44] as an additional attachment to his amended complaint [Entry #27]. No responsive pleading from Defendants is required.

III. Motion for Copies

In his motion for copies, Plaintiff seeks a free copy of all documents filed, including his own filings. Defendants must serve Plaintiff with one copy of any document they file and the Clerk's office mails Plaintiff a copy of any document issued by the court. However, Plaintiff is not entitled to a free copy of documents that he files. The court does not provide free copies to litigants, including indigent litigants proceeding in forma pauperis. Therefore, to the extent Plaintiff seeks a free copy of his filings, his request is denied. The Clerk's Office charges 50 cents per page for copies. If Plaintiff wishes to purchase a copy of his filings, he may contact the Clerk of Court at 803-765-5816 or 901 Richland Street, Columbia, SC 29201 to make payment arrangements. Additionally, the court notes that it does not appear that SCDC is stealing his documents as he believes [Entry #30], as the court has received 29 filings from him since this case began on June 9, 2014.

IT IS SO ORDERED.

A handwritten signature in cursive script, reading "Shiva V. Hodges".

August 28, 2014
Columbia, South Carolina

Shiva V. Hodges
United States Magistrate Judge